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TOWNSEND AND TOWNSEND AND CREW, LLP  
TWO EMBARCADERO CENTER  
EIGHTH FLOOR  
SAN FRANCISCO CA 94111-3834

In re Application of: MANABU KITAMURA

Application No. 10/814,706  
Filed: March 30, 2004  
For: ASURING GENUINENESS OF DATA  
STORED ON A STORAGE DEVICE  
PERFUSION

DECISION ON PETITION  
TO MAKE SPECIAL  
(ACCELERATED EXAMINATION)  
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed April 29, 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

- (a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
- (b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
- (c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;
- (d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

- (e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

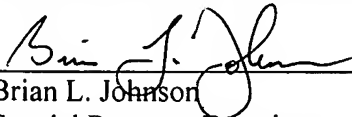
The petition filed April 28, 2005 fails to adequately meet requirement (e) of the criteria set forth above. With respect to requirement (e), applicant must provide a detailed discussion of reference documents (U.S. Patent 5,930,358 granted to Rao and U. S. Patent Application No. 10/808,792 filed March, 24, 2004) since applicant has deemed it as one of the most closely related references. As to U.S. Patent 5,930,358, merely paraphrasing two or more columns of reference (as in discussion on page 3 of 10, paragraphs 4-5, which phrases abstract and col. 1, line 48, through column 3, line 20, includes the summary of the invention) accompanied by a copy of claim 1 repeated limitation(s) not taught by the reference; (such as "a storage controller that collects log information of the management operation on at least one of the storage volumes"; see, paragraphs 4, lines 2-3 and 6-7). As to US Patent Application Serial Number 10/808,792, such listing is an improper submission included with the petition, a pending application is not published document and/or granted patent, it cannot be cited on form PTO 1449. However, the Petitioner is suggested to include teachings of this document in the specification in the section, "Description of the Related Art" including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art.". Petitioner is suggested to review all references cited in the Petition and PTO 1449 and the Petitioner should ensure that the above discussion is directed to how the language of **each of the independent claims** are specifically distinguishable and patentable from the references provided in requirement (d) above. The statement that the reference shares the same deficiencies as another reference is not sufficient to meet the requirement of a detailed discussion as required by 37 CFR 1.111 (b) and (c).

In addition, Petitioner should considering removing US Patent Application Serial Number 10/808,792 from inclusion in the Petition and from PTO-1449 to ensure consideration of all of the cited references.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

  
Brian L. Johnson  
Special Program Examiner  
Technology Center 2100  
Computer Architecture, Software and Information Security  
571-272-3595  
7/6/05